

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**MOTION TO WITHDRAW MOTION TO STAY AND INVOKE USSG
AMENDMENT 814 OF THE U. S. SENTENCING GUIDELINES**

COMES Movant, SUSAN ELISE PROPHET (“Prophet”), appearing *pro se*, and respectfully files her Motion to Withdraw Motion to Stay and Invoke USSG Amendment 814 of the U. S. Sentencing Guidelines, and in support motion would show as follows:

I. PRELIMINARY STATEMENT

As a preliminary matter, Prophet respectfully requests that the Court be mindful that *pro se* pleadings are to be construed liberally. See *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015); *Estelle v. Gamble*, 429 U.S. 97 (1976) (same); and *Haines v. Kerner*, 404 U.S. 519 (1972) (same).

II. RELEVANT BACKGROUND

On August 1, 2023, Prophet filed Motion for Compassionate Release. See Doc¹. 106.

On August 7, 2023, Prophet filed a combination of Motion to Stay and Citation of New Additional Authority, which the Court issued that the Suggestions in opposition/response due by August 21, 2023. See Doc. 107. This pleading was never ruled on by the Court.

On August 16, 2023, the Government filed Suggestions in Opposition to Prophet's Motion for Compassionate Release. See Doc. 108.

On September 5, 2023, Prophet filed a Reply to Government's Suggestions. See Doc. 110.

III. REASON TO WITHDRAW MOTION TO STAY

Prophet file her Citation of Additional Relevant Authority and Motion to Stay [Doc. 107] for the specific purpose to invoke USSG Amendment 814, which did not become effective until November 1, 2023. However, the Court did not rule on that pleading to date. In light of USSG Amendment 814, Prophet respectfully requests that the Court withdraw her Motion to Stay and rule on her Motion for

¹ Doc. refers to the Docket Report in the United States District Court for the Western District of Missouri, Western Division, in Criminal No 4:14-cr-00047-DGK-1, which is followed by the Docket Entry Number.

Compassionate Release under USSG Amendment 814.

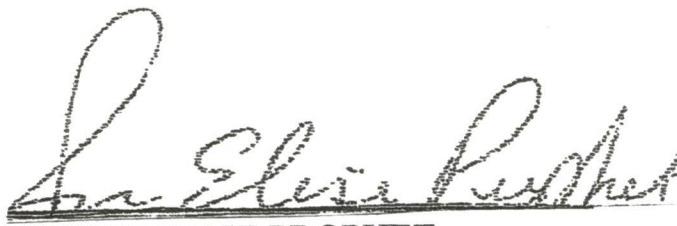
In this case, Prophet was supposed to go back to her pulmonologist months ago instead, they are now refilling her inhalers. It is a fact that within the past months that Prophet has been prescribed with different inhalers with varying doses, there were no significant improvement noted on her health status. This means that, renewing medicines that clearly do not work on Prophet, and even the unexplained prescription with Vitamin D were ways of the BOP to disregard the true condition of Prophet. The failure to render the proper medical care puts Prophet's medical condition in greater danger. It is clear that, the BOP has acted with Deliberate Indifference towards a serious medical need. Thus, Prophet should be given with the necessary medical treatment to address her health issues.

First, extraordinary and compelling reasons exist where the defendant (1) is suffering from a serious physical or medical condition that (2) substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and (3) from which he is not expected to recover. See U.S.S.G. § 1B1.13(b)(1)(B)(i). Though she is not at death's door, Prophet's medical records show that her condition is both chronic and persistent, hurting her lungs and pulmonary function.

Second, Prophet also presents a combination of circumstances that, considered with her health, are “similar in gravity” to the other reasons explicitly listed in subsections (b)(1)–(4) of the policy statement. See U.S.S.G. § 1B1.13(b)(5) (newly amended catch-all provision). As discussed, her deteriorating health is a serious medical condition. Her rehabilitation and clean disciplinary history while incarcerated are remarkable.

For the above reasons, Prophet respectfully requests that her Motion to Stay be withdrawn and prays that in light of USSG Amendment 814, this Court grant her compassionate release motion.

Respectfully submitted,



SUSAN ELISE PROPHET
REG. NO. 26698-045
FCI WASECA
FEDERAL CORR. INSTITUTION
P.O. BOX 1731
WASECA, MN 56093
Appearing *Pro Se*

Dated: December 12, 2023

CERTIFICATE OF SERVICE

I hereby certify that on December 12 2023, a true and correct copy of the above and foregoing Motion to Withdraw Motion to Stay and Invoke USSG Amendment 814 of the U. S. Sentencing Guidelines was mailed via U. S. Mail, postage prepaid, to Kathleen D. Mahoney, at U.S. Attorney's Office - KCMO, 400 E 9th Street, Suite 5510, Kansas City, MO 64106.



SUSAN ELISE PROPHET

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REG. NO. 26698-045
FCI WASECA
FEDERAL CORR. INSTITUTION
P.O. BOX 1731
WASECA, MN 56093

December 12, 2023

Clerk of Court,
U. S. District Court
Western District of Missouri
Western Division - Kansas City
400 East Ninth Street
Kansas City, MO 64106

RE: *Prophet v. United States*
Crim No. 4:14-cr-00047-DGK-1

To the Clerk of Court:

Enclosed please find and accept for filing Defendant's Motion to Withdraw Motion to Stay and Invoke USSG Amendment 814 of the U. S. Sentencing Guidelines. Please submit this document to the Court.

Thank you for your assistance in this matter.

Sincerely,



SUSAN ELISE PROPHET
Appearing *Pro Se*

Encl. as noted

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SUSAN ELISE PROPHET
Reg. No. 26698-045
FCI WASECA
FEDERAL CORR. INSTITUTION
P.O. BOX 1731
WASECA, MN 56093

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